IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
March 25, 2009 Session

STATE OF TENNESSEE v. RALPHELLE JAMES

Appeal from the Criminal Court for Hamilton County
No. 265412 Barry A. Steelman, Judge

No. E2008-01493-CCA-R3-CD - Filed June 5, 2009

The defendant, Ralphelle James, appeals from his Hamilton County Criminal Court convictions of theft of property valued at $1,000 or more and aggravated burglary.[1] The defendant challenges a jury instruction permitting the petit jury to infer guilt of theft and burglary from his possession of stolen property. He also argues that the convicting evidence for his aggravated burglary conviction was legally insufficient. Lastly, the defendant challenges the trial court's procedure of "permitting jurors to submit questions to the witnesses and by permitting answers to such questions to reopen direct and cross examination of the witnesses so questioned." Discerning no error, we affirm the judgments of the trial court.

Tenn. R. App. P. 3; Judgments of the Criminal Court Affirmed

JAMES CURWOOD WITT, JR., J., delivered the opinion of the court, in which JOSEPH M. TIPTON, P.J., and D. KELLY THOMAS, JR., J., joined.

Benjamin L. McGowan, Chattanooga, Tennessee, for the appellant, Ralphelle James.

Robert E. Cooper, Jr., Attorney General and Reporter; Leslie E. Price, Assistant Attorney General; William H. Cox, III, District Attorney General; and Boyd Patterson and C. Matthew Rogers, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

On the morning of July 3, 2007, Maxine Bailey, the victim, discovered that her laptop computer, cash from her pocketbook, and her 1998 Toyota RAV4 were missing from her home. She reported the stolen items to the Chattanooga Police Department, and on July 10, 2007, a patrolling officer observed the defendant driving the victim's RAV4 and arrested him. A Hamilton County Grand Jury indicted the defendant for aggravated burglary, *see* T.C.A. § 39-14-403, theft of property valued at $1,000 or more, *see id.* § 39-14-103, and public intoxication, *see id.* § 39-17-310. After

---

[1] The defendant was also convicted of public intoxication, *see* T.C.A. § 39-17-310; however, he does not appeal this conviction.

a four-day trial, a jury convicted the defendant as charged on all three counts. After a sentencing hearing, by judgments of conviction entered on June 4, 2008, the court sentenced the defendant to six years' incarceration for the aggravated burglary conviction to be served consecutively to four years' incarceration for the theft conviction. The defendant also received 30 days in the workhouse for his misdemeanor public intoxication conviction to be served concurrently with the felony convictions. The defendant filed a timely motion for new trial and notice of appeal on July 7, 2008. The trial court denied the defendant's motion for new trial on August 6, 2008.

The victim, Ms. Bailey, testified that on July 2, 2007, she returned home from work at 5:30 or 6:00 p.m. and went through her nightly routine of checking her mail and electronic mail, cleaning house, watching television, reading, and cooking dinner. She testified that she went to bed at approximately 10:00 or 10:30 p.m. The next morning, on July 3, 2007, she awoke at approximately 6:00 or 6:30 a.m. She started her coffee maker and then went to her study to check her electronic mail. She noticed that her laptop computer was not at her desk, and she looked around her home for the computer but could not find it. She then noticed that her wallet had been removed from her pocketbook and $100 in cash was missing. Ms. Bailey also observed that a door to a room in her home that she generally did not use had been opened and that the window inside the room had also been opened. She testified that, at that point, she realized "somebody must have come in during the night." The victim testified that she then called the police and that she was frightened because she lived alone.

Ms. Bailey then looked out the window in expectation of law enforcement personnel, and she noticed that her vehicle was missing. She had owned a Toyota RAV4 since 1999. She testified that the vehicle was in "pretty good condition" with approximately 60,000 miles and that she could have sold the vehicle for approximately $10,600. After seeing that her vehicle was missing, she went through her pocketbook and discovered that her keys were also missing. Ms. Bailey provided the police with the serial number for her laptop computer and the vehicle identification number ("VIN") for her car. She testified that she kept the title to the vehicle in the glove compartment.

Ms. Bailey testified that she had never seen the defendant before and that she neither conveyed the vehicle to him nor gave him permission to take the vehicle.

On cross-examination, Ms. Bailey described her neighborhood as "urban" and "in the process of revitalization." She said, "There have been good things and not too good things about living on that street." She testified that she had been burglarized on another occasion one or two years before and that in that burglary the suspect broke down the back door.

Twanda Lyons testified that she was an assistant manager at TitleMax on July 3, 2007, when the defendant inquired about a loan using the RAV4's title as collateral. She testified that the defendant presented her with a title reflecting that he had purchased the vehicle from Ms. Bailey on May 10, 2007. Although handwriting on the back of the title represented that Ms. Bailey had sold the vehicle to the defendant, Ms. Lyons told the defendant that he would have to have the title registered in his name before she could process the loan. The defendant returned later that day with a copy of his application for certificate of title. Ms. Lyons stated that the state department of

revenue later mailed a title, issued July 13, 2007, to TitleMax reflecting that the defendant owned the vehicle and listing TitleMax as the lien holder on the title. The application for title represented that the defendant had purchased the vehicle from the victim for $1,200.

Ms. Lyons testified that a man named Darrell Goodlow was with the defendant and was listed on the defendant's loan application because he represented that he lived with the defendant. Ms. Lyons testified that no women were present with the defendant and that no one purported to be Ms. Bailey. Ms. Lyons testified that TitleMax's inspection of the RAV4 revealed that it was in "excellent condition" and that the odometer read 56,434 miles. She testified that the actual cash value of the vehicle was $3,200, which made the defendant eligible for a $2,500 loan from TitleMax.

On cross-examination, Ms. Lyons stated that neither the defendant nor Mr. Goodlow appeared suspicious to her. She testified that she had no recollection of what time the defendant visited on July 3, but she stated that store hours were 9:00 a.m. to 6:00 p.m.

Vonda Shoemate of the Hamilton County Clerk's office testified that she processed registrations for vehicle titles and tags and that the defendant presented her office with a title on July 3, 2007. She explained that the title reflected that Ms. Bailey had owned the vehicle, but the back of the title contained a handwritten transfer representing that the victim had sold the vehicle to the defendant for $1,200 on May 10, 2007, and noting a lien in the name of TitleMax. She further noted that her records reflected that Ms. Bailey had purchased the vehicle in 1999 and had last renewed her registration on June 1, 2007.

Ms. Shoemate testified that when an applicant lists a sale price of less than 75 percent of the vehicle's retail value, an "Affidavit of Non-Dealer Transfer of Motor Vehicles and Boats" is required. Because of the low sale price of the RAV4, the defendant completed an affidavit which also purported to be signed by the victim. The affidavit reflected that the low price of the May 10, 2007 sale resulted from Ms. Bailey's being a "family friend" of the defendant. Ms. Shoemate testified that the affidavit required that the signee swear under penalty of perjury that the listed information was true and correct.

Ms. Shoemate further testified that, before approving an application for certificate of title, the department of revenue cross-references a vehicle's identification number with a database to check for any stolen vehicle reports or other legal complications. She testified that the new title for the RAV4 was created on July 5; however, on July 6 the department of revenue learned that a stolen vehicle report existed on the vehicle. She stated that, after the vehicle was recovered by law enforcement personnel on July 10, 2007, the title was issued to TitleMax as first lien holder.

On cross-examination, Ms. Shoemate explained that she did not personally interact with the defendant on July 3. She also could not state what time of day the defendant applied for the new title, and she could only state that the clerk's office was open from 8:00 a.m. to 4:30 p.m. Also, she explained that the purpose of the affidavit of non-dealer transfer was to determine the proper tax value of the vehicle.

Officer John Patterson of the Chattanooga Police Department testified that at 2:27 a.m. on July 10, 2007, he observed a Toyota RAV4 approximately one-eighth of a mile from Ms. Bailey's residence. He ran the RAV4's tags and the "[c]omputer showed . . . it belonged to [the defendant]." However, Officer Patterson testified that he found the vehicle "really suspicious" because it was the only RAV4 he had seen in the area. He followed the vehicle to an apartment parking lot, and he observed the defendant step out of the vehicle. After the defendant had walked out of sight, Officer Patterson approached the vehicle and recorded its VIN number. He then returned to his patrol vehicle and compared the number with that listed on his computer. He learned that the RAV4 was, in fact, the stolen vehicle, and he called for back-up personnel to assist in arresting the defendant.

Officer Patterson testified that he saw the defendant standing in a breeze way and that the defendant was "unsteady on his feet," smelled strongly of alcohol, and appeared intoxicated. Officer Patterson placed the defendant in handcuffs and advised him of his *Miranda* rights. Officer Patterson testified that the defendant told him that he had purchased the vehicle seven days earlier for $1,200 from "Ms. Bailey," that he could not recall her first name, and that the RAV4 had 56,000 miles on it. Officer Patterson stated that the defendant could not say where or at what time of day he bought it. The defendant showed Officer Patterson paperwork indicating his ownership of the vehicle. Officer Patterson stated that the address on the defendant's state identification card reflected that he lived "several miles" from the area where he was stopped.

On cross-examination, Officer Patterson admitted that the defendant made no furtive moves or attempts to flee. Officer Patterson explained that the defendant's girlfriend lived at the apartment complex.

Detective Jeff Bryden of the Chattanooga Police Department testified that he received a call regarding the burglary of the victim's home on the morning of July 3, 2007, and he viewed the home later that afternoon at approximately 4:00 p.m. after speaking with the officer who first reported to the scene. Detective Bryden walked around the side of the victim's yard and located the window that had been broken and examined it for latent prints. Detective Bryden testified that he was unable to obtain any usable prints from the window. At that point, Detective Bryden entered the information regarding the stolen items into the Chattanooga Police Department's computer system, and he entered the VIN number of the victim's vehicle into the National Crime Information Center database.

Detective Bryden testified that Officer Patterson called him seven days later with a "break" in the case. The defendant was indicted for the burglary, and Detective Bryden attended his preliminary hearing. Detective Bryden testified that, at the preliminary hearing, the defendant stated that he bought the RAV4 from "a blond-haired, blue-eyed female at the corner of Main and Dodds in the daytime" although the defendant could not specify the exact time. Detective Bryden stated that the defendant testified that he did not know the female and that the defendant assumed that she was under the influence of drugs when he bought the car from her. Further, Detective Bryden stated that the defendant maintained that he had $1,500 cash in his pocket when he bought the car for $1,200.

The State then played a recording of the defendant's testimony at the preliminary hearing. At the hearing, the defendant testified that he did not know whether he purchased the vehicle on May 10, 2007, as noted on the title. The defendant testified that a woman "flagged [him] down" and asked, "Do you want to buy a car?" He responded, "Yes, ma'am, I got 1200 right here." The recording did not reflect, and Detective Bryden did not recall, the defendant's mentioning anything about Ms. Bailey being a "family friend." Detective Bryden clarified that the defendant never alleged that Ms. Bailey was the same woman who sold him the vehicle. Detective Bryden further stated that the victim had not received her vehicle because TitleMax held the title.

On cross-examination, Detective Bryden admitted that he never entered the victim's house to examine the scene and that he did not interview any neighbors regarding the night of the alleged burglary. He also admitted that he never visited the convenience store near the victim's property to interview any possible witnesses. Detective Bryden stated that, as part of his investigation, he provided information about the victim's stolen laptop computer to the "pawn shop unit" which canvassed Chattanooga-area pawn shops and that he never discovered any leads on the computer.

The State rested, and the defendant chose not to testify. Kathryn Williams, the defendant's girlfriend of more than five years, testified that in July 2007 she and the defendant lived together on Germantown Road in Chattanooga and that the defendant generally stayed overnight with her. She stated that on July 3, 2007, the defendant arrived at her apartment between 12:00 and 1:00 a.m. After waking up later in the morning on July 3, the defendant asked Ms. Williams to drive him to the area of Main Street and 19th Street. Ms. Williams testified that the defendant asked her to drop him off in that area "all the time" and that he "hung out" at a convenience store there. The defendant returned to Ms. Williams' apartment between the hours of 1:00 a.m. and 2:00 a.m. on July 4. Ms. Williams testified that the defendant told her he "got a blessing" and explained he had bought a vehicle from a woman on Main Street for $1,200.

Ms. Williams testified that no law enforcement officer approached her to speak about the defendant. She explained that she did not tell any law enforcement personnel what the defendant had told her on July 4, 2007, because the defendant was employed, and to her knowledge, he legitimately bought a vehicle. She explained that the defendant was paid weekly in cash and that he did not maintain a bank account.

On cross-examination, Ms. Williams agreed that the defendant was "pretty much" her common law husband[2] but stated that the relationship was only "decent." She also maintained that Darrell Goodlow was her mother's name and that her mother spent all of July 3 with her and was never at TitleMax with the defendant. She stated that, on the morning of July 4, 2007, after the defendant explained that he had received a "blessing," she noticed a new vehicle in her driveway but that she never rode in the car.

---

[2] "Except as restricted by constitutional provisions, the inception, duration, status, conditions, and termination of a marriage in Tennessee are subject to state legislative power and control. Common-law marriages are not recognized in Tennessee." *Guzman v. Alvares*, 205 S.W.3d 375, 379 (Tenn. 2006) (citing *Crawford v. Crawford*, 198 Tenn. 9, 277 S.W.2d 389, 391 (Tenn. 1955); *see Martin v. Coleman*, 19 S.W.3d 757, 760 (Tenn. 2000)) (citations omitted).

Based upon the evidence as summarized above, the jury returned guilty verdicts on all counts as charged. The defendant appeals on three issues. First, he argues that the trial court erred by instructing the jury that it could infer guilt of burglary through possession of stolen property. Next, the defendant challenges as legally insufficient the evidence of his aggravated burglary conviction. Lastly, the defendant argues that the trial court erred in its procedure of permitting jurors to submit questions to the witnesses.

I. Jury Instructions

The State asked the trial court to provide the following jury instruction: "The defendant's possession of recently stolen goods creates an inference that the defendant has stolen them, as well as committed the burglary antecedent to the theft." The defendant objected to the inclusion of such an instruction and argued that the extension of the inference to aggravated burglary was improper. Over the defendant's objection, the trial court instructed the jury,

> Inferences from possession of recently stolen property: If you find beyond a reasonable doubt from the evidence that the property in question had been recently stolen, and that soon thereafter the same property was discovered in the exclusive possession of the defendant, or that the defendant was in joint possession of the stolen property, this possession, unless satisfactorily explained, is ordinarily a circumstance from which you may reasonably draw an inference that the defendant gained possession through theft or had knowledge that the property had been stolen.
>
> Furthermore, if you find beyond a reasonable doubt from the evidence that the defendant gained possession of the property in question through theft, and you also find beyond a reasonable doubt that the theft could only have been accomplished through aggravated burglary or burglary, you may also reasonably draw an inference that the defendant committed such aggravated burglary or burglary; however, you are never required to make either inference. It is for you to determine whether the facts and circumstances shown by the evidence in this case warrant any inference which the law permits you to draw from the possession of recently stolen property.
>
> When the evidence is offered that the defendant was in possession of recently stolen property, the defendant has the right to introduce evidence that he came into possession of the property lawfully, or possession may be satisfactorily explained through other circumstances or other evidence independent of any testimony or evidence offered by the defendant.

> In considering whether possession of recently stolen property has been satisfactory explained, you are reminded that in the exercise of constitutional rights, the accused need not take the witness stand to testify.
>
> The term "recently" is a relative term and has no fixed meaning. Whether property may be considered as recently stolen depends upon the nature of the property and all the facts and circumstances shown by the evidence in the case. The longer the period of time since the theft, the more doubtful becomes the inference which may be drawn from unexplained possession.
>
> The correctness of the inference and the weight to be given any explanation that may be shown by the evidence are matters that must be determined by you, and you are not bound to accept either. You must weigh all the evidence presented as to the defendant's alleged possession of the property in question, and decide, in light of all the facts and circumstance present, whether any inference is warranted.

This language essentially tracks that of Tennessee Criminal Pattern Jury Instruction 42.20. *See* T.P.I.-Crim. 42.20 (12th ed.).

The trial court has a duty "to give a complete charge of the law applicable to the facts of a case." *State v. Harbison*, 704 S.W.2d 314, 319 (Tenn. 1986); *see* Tenn. R. Crim. P. 30. "[I]n determining whether jury instructions are erroneous, this [c]ourt must review the charge in its entirety" and invalidate the charge only if, when read as a whole, "it fails to fairly submit the legal issues or . . . misleads the jury as to the applicable law." *State v. Vann*, 976 S.W.2d 93, 101 (Tenn. 1998).

The defendant first argues that Tennessee should abandon its Criminal Pattern Jury Instruction 42.20, upon which the trial court largely modeled its instruction, because "the jury need not be instructed on matters which are entirely within their basic rational understanding and common sense." We disagree. Our supreme court has approved substantially similar jury instructions and determined that a trial court may appropriately instruct the jury that it may infer theft or knowledge of stolen property from the possession of stolen property. *Bush v. State*, 541 S.W.2d 391, 397 (Tenn. 1976) (quoting *Barnes v. United States*, 412 U.S. 837, 840 n.3, 93 S. Ct. 2357, 2360 n.3 (1973)). It is well established that the unsatisfactorily explained possession of recently stolen goods, in light of the surrounding circumstances, permits an inference that the individual in possession stole the property or knew the property was stolen. *See, e.g.*, *Barnes*, 412 U.S. at 843-44, 93 S. Ct. at 2362; *Bush*, 541 S.W.2d at 394; *State v. Anderson*, 738 S.W.2d 200, 202 (Tenn. Crim. App. 1987). The jury may choose to apply the inference, even in the face of contradictory evidence or the defendant's contrary explanation. *State v. Land*, 681 S.W.2d 589, 591 (Tenn. Crim. App. 1984); *see Bush*, 541 S.W.2d at 395. In light of this well-settled area of law, we will not abandon the pattern instruction.

The defendant next challenges the trial court's instruction allowing the inference of theft to be extended to an inference that the defendant committed burglary. We note that the trial court added to the pattern instructions, "[I]f you find beyond a reasonable doubt . . . that the defendant gained possession of the property . . . through theft, and you also find beyond a reasonable doubt that the theft could only have been accomplished through aggravated burglary . . . , you may also reasonably draw an inference that the defendant committed such aggravated burglary . . . ." The defendant argues that this instruction was incomplete, inaccurate, and confusing. He maintains that two inferences may be drawn from possession of recently stolen property, "(1) that the possessor is the actual thief, or; (2) that the possessor is simply in knowing possession of stolen property." He acknowledges that the court's initial instruction regarding the inference of theft accounted for both these inferences, and then he notes that Tennessee merges both these offenses into its general definition of "theft." *See* T.C.A. § 39-14-101. The defendant argues that the trial court's additional instruction, which permitted the jury to infer burglary if it found that the defendant committed theft, was incomplete because it did not delineate actual taking from mere possession of stolen property. The defendant maintains that a jury could not infer burglary from the knowing receiving of stolen property, even though such an act legally constitutes "theft."

We do not agree with the defendant's characterization of the jury instructions. When taken on the whole, the instructions clearly convey that the burglary inference refers only to when the jury finds that the defendant actually acted as the thief. After the court instructed the jury that it may infer that the defendant gained possession of the stolen property "through theft" or "had knowledge that the property had been stolen," the court immediately explained that, if the jury found that the defendant gained possession "through theft," an inference of burglary may also apply. In our view, the trial court explicitly applied the burglary inference to the "through theft" inference and *not* to the "had knowledge that the property had been stolen" inference.

Further, the trial court's instruction that the jury may infer burglary upon finding that the defendant actually took the stolen property in his possession reflected an accurate statement of law. As mentioned above, it is well settled that a jury may infer the defendant's taking of property from his possession of stolen property, and this inference extends to burglary and aggravated burglary. In Tennessee, unsatisfactorily explained possession of recently stolen goods may be sufficient, in and of itself, to sustain a burglary conviction. *See State v. Tuttle*, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995); *State v. Hamilton*, 628 S.W.2d 742, 746 (Tenn. Crim. App. 1981); *State v. Robert Fluellen*, No. W2005-01155-CCA-R3-CD, slip op. at 5 (Tenn. Crim. App., Jackson, Feb. 7, 2006); *see also State v. Bill Teal*, No. 01C01-9611-CC-00482, slip op. at 11-12 (Tenn. Crim. App., Nashville, Dec. 10, 1997) (stating the jury could infer guilt of aggravated burglary from defendant's possession of recently stolen property and finding the evidence sufficient to support the conviction). The trial court's instruction accurately conveyed these principles of law, and we will not disturb its instructions to the jury.

II. Sufficiency of the Evidence

The defendant challenges the legal sufficiency of the convicting evidence for his conviction of aggravated burglary. A convicted criminal defendant who challenges the sufficiency of the evidence on appeal bears the burden of demonstrating why the evidence is insufficient to

support the verdict because a guilty verdict destroys the presumption of innocence and replaces it with a presumption of guilt. *See State v. Evans*, 108 S.W.3d 231, 237 (Tenn. 2003); *State v. Carruthers*, 35 S.W.3d 516, 557-58 (Tenn. 2000); *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982). This court must reject a defendant's challenge to the sufficiency of the evidence if, after considering the evidence in a light most favorable to the prosecution, we determine that any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *See Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979); *State v. Hall*, 8 S.W.3d 593, 599 (Tenn. 1999).

On appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable and legitimate inferences which may be drawn therefrom. *See Carruthers*, 35 S.W.3d at 558; *Hall*, 8 S.W.3d at 599. A guilty verdict by the trier of fact accredits the testimony of the State's witnesses and resolves all conflicts in the evidence in favor of the prosecution's theory. *See State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997). Issues of the credibility of witnesses, the weight and value of the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact, and this court will not re-weigh or re-evaluate the evidence. *See Evans*, 108 S.W.3d at 236; *Bland*, 958 S.W.2d at 659. This court may not substitute its own inferences drawn from circumstantial evidence for those drawn by the trier of fact. *See Evans*, 108 S.W.3d at 236-37; *Carruthers*, 35 S.W.3d at 557.

Moreover, a criminal offense may be established exclusively by circumstantial evidence, *Duchac v. State*, 505 S.W.2d 237 (Tenn. 1973); *State v. Winters*, 137 S.W.3d 641, 654 (Tenn. Crim. App. 2003); however, before an accused may be convicted of a criminal offense based upon circumstantial evidence alone, the facts and circumstances "must be so strong and cogent as to exclude every other reasonable hypothesis save the guilt of the defendant." *State v. Crawford*, 470 S.W.2d 610, 612 (Tenn. 1971). "In other words, '[a] web of guilt must be woven around the defendant from which he cannot escape and from which facts and circumstances the jury could draw no other reasonable inference save the guilt of the defendant beyond a reasonable doubt.'" *State v. McAfee*, 737 S.W.2d 304, 306 (Tenn. Crim. App. 1987) (quoting *Crawford*, 470 S.W.2d at 613).

A person commits aggravated burglary when he enters a habitation with the intent to commit a felony, theft, or assault. T.C.A. §§ 39-14-402, -403. A "habitation" is "any structure, including buildings, . . . which is designed or adapted for the overnight accommodation of persons." *Id.* § 39-14-401(1)(A). As discussed previously, the jury was permitted to infer from the defendant's possession of the stolen vehicle that the defendant committed aggravated burglary by taking the victim's keys from her home. The evidence showed that the defendant had possession of the victim's RAV4 during business hours on July 3, directly after the night in which the victim's home was broken into and her keys stolen. The defendant's explanation of buying the vehicle on a whim from a drug-influenced woman representing herself as Ms. Bailey was clearly discredited by the jury. The defendant misrepresented his acquisition of the vehicle to TitleMax, to the department of revenue, and during his preliminary hearing. The defendant represented that he properly purchased the vehicle on May 10, 2007; however, the evidence adduced at trial shows such a sale date is impossible because Ms. Bailey testified the vehicle was stolen the night of July 3, and registration records showed that she had renewed the vehicle's registration on June 1, 2007. A jury may take into account the defendant's possession of the stolen vehicle and his incredible explanations to

support the inference that he stole the vehicle from the victim. Further, as noted above, the theft of the vehicle necessitated an aggravated burglary to acquire the vehicle's key. The jury clearly found the defendant's explanations unsatisfactory, and it acted within its province in expanding its inference of theft to aggravated burglary. *See Tuttle*, 914 S.W.2d at 932; *Hamilton*, 628 S.W.2d at 746*; Robert Fluellen*, slip op. at 5; *see also Bill Teal*, slip op. at 11-12. We will not disturb the jury's verdict.

III. Juror Questions

Lastly, the defendant argues that "the court abused its discretion in permitting jurors to submit questions to the witnesses and by permitting answers to such questions to reopen direct and cross examination of the witnesses so questioned." After both Detective Bryden's and Ms. Williams' testimony, jurors submitted written questions to the court, and the court, after a bench conference with counsel, permitted counsel to ask the jurors' questions. This procedure followed Tennessee Rule of Criminal Procedure 24.1(c), which provides:

> In the court's discretion, the court may permit a juror to ask a question of a witness. The following procedures apply:
>
> (1) Written Submission of Questions. -- The juror shall put the question in writing and submit it to the judge through a court officer at the end of a witness' testimony. A juror's question shall be anonymous and the juror's name shall not be included in the question.
>
> (2) Procedure After Submission. -- The judge shall review all such questions and, outside the hearing of the jury, shall consult the parties about whether the question should be asked. The judge may ask the juror's question in whole or part and may change the wording of the question before asking it. The judge may permit counsel to ask the question in its original or amended form in whole or in part.

Tenn. R. Crim. P. 25.1(c)(1)-(2). We cannot say that the trial court erred by following the rules of procedure.

The defendant further argues that, after the court followed this procedure, it erred by allowing "follow up questions" after juror questions were asked of Ms. Williams. He asks us to read the language "submit it to the judge through a court officer *at the end of a witness' testimony*" in Rule 25.1(c)(1) as a restriction on further testimony after the proposing of juror questions. The defendant reasons "that language expressly recognizes that, but for the juror question, the witness' testimony is done and that the advocates have finished their job with respect to him or her." We disagree with this interpretation.

In Tennessee, "the propriety, scope, manner and control of the examination of witnesses is a matter within the discretion of the trial judge, subject to appellate review for abuse of discretion." *State v. Caughron*, 855 S.W.2d 526, 540 (Tenn. 1993); *State v. Dishman*, 915 S.W.2d

458, 463 (Tenn. Crim. App. 1995); *cf.* Tenn. R. Evid. 611(a) (stating that the trial court has authority to "exercise appropriate control over the presentation of evidence and conduct of the trial when necessary to avoid abuse by counsel"). The trial court has well-established authority to permit cross-examination and to control the scope of such questioning. Further, even under the defendant's contention that juror questions are only permitted at the conclusion of a witness's testimony, we note that permitting a witness to be recalled is a decision resting in the sound discretion of the trial judge. *Lillard v. State*, 528 S.W.2d 207, 212 (Tenn. Crim. App. 1975). In light of the trial court's discretion in permitting the questioning of witnesses, we will not say the court erred in allowing "follow up questions" upon the jurors' submitted questions.

IV. Conclusion

In light of the foregoing analysis, we affirm the judgments of the trial court.

_____

JAMES CURWOOD WITT, JR., JUDGE